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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/845,897	04/28/1997	M. ASHRAF IMAM	77897-US1	8846
26384 7590 02/06/2009 NAVAL RESEARCH LABORATORY ASSOCIATE COUNSEL (PATENTS) CODE 1008.2 4555 OVERLOOK AVENUE, S.W. WASHINGTON, DC 20375-5320				
EXAMINER				
VO, HAI				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
02/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: ASHRAF IMAM, BHAKTA RATH and
TEDDY KELLER

Application No. 08/845,897
Technology Center 1700

Mailed: February 6, 2009

Before TOI JOHNSON *Review Paralegal*
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 9, 2008. A review of the application revealed that it is not ready for docketing as an appeal.

Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section § 1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed February 8, 2008, is deficient because the "Evidence Relied Upon" section fails to include the reference Akiyama (US 4,713,277) cited on page 5 in the Examiner's Answer's grounds of rejection for claims 1-4, 7, 11 and 17-28 under 35 USC § 103(a).

Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) issue a PTOL-90 citing the missing reference listed under the Evidence Relied Upon section, paragraph (8); and

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2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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